

Calendar No. 617

110TH CONGRESS
2D SESSION**S. 980**

To amend the Controlled Substances Act to address online pharmacies.

IN THE SENATE OF THE UNITED STATES

MARCH 23, 2007

Mrs. FEINSTEIN (for herself, Mr. SESSIONS, Mr. BIDEN, Mr. COLEMAN, Mr. LEAHY, and Mr. CORNYN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

MARCH 12, 2008

Reported by Mr. LEAHY, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]

A BILL

To amend the Controlled Substances Act to address online pharmacies.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Online Pharmacy Con-
5 sumer Protection Act of 2007”.

1 **SEC. 2. AMENDMENTS TO THE CONTROLLED SUBSTANCES**
2 **ACT RELATING TO THE DELIVERY OF CON-**
3 **TROLLED SUBSTANCES BY MEANS OF THE**
4 **INTERNET.**

5 (a) IN GENERAL.—Section 102 of the Controlled
6 Substances Act (21 U.S.C. 802) is amended by adding at
7 the end the following:

8 “(47) The term ‘Internet’ means collectively the
9 myriad of computer and telecommunications facili-
10 ties, including equipment and operating software,
11 which comprise the interconnected worldwide net-
12 work of networks that employ the Transmission
13 Control Protocol/Internet Protocol, or any prede-
14 cessor or successor protocol to such protocol, to com-
15 municate information of all kinds by wire or radio.

16 “(48) The term ‘deliver, distribute, or dispense
17 by means of the Internet’ refers, respectively, to any
18 delivery, distribution, or dispensing of a controlled
19 substance that is caused or facilitated by means of
20 the Internet.

21 “(49) The term ‘online pharmacy’—

22 “(A) means a person, entity, or Internet
23 site, whether in the United States or abroad,
24 that delivers, distributes, or dispenses, or offers
25 to deliver, distribute, or dispense, a controlled
26 substance by means of the Internet; and

1 “(B) does not include—

2 “(i) manufacturers or distributors
3 registered under subsection (a), (b), (c), or
4 (d) of section 303 who do not dispense
5 controlled substances;

6 “(ii) nonpharmacy practitioners who
7 are registered under section 303(f);

8 “(iii) mere advertisements that do not
9 attempt to facilitate an actual transaction
10 involving a controlled substance; or

11 “(iv) a person, entity, or Internet site
12 which is not in the United States and does
13 not facilitate the delivery, distribution, or
14 dispensing of a controlled substance by
15 means of the Internet to any person in the
16 United States.

17 “(50) The term ‘homepage’ means the first
18 page of the website of an online pharmacy that is
19 viewable on the Internet.”.

20 (b) REGISTRATION REQUIREMENTS.—Section 303 of
21 the Controlled Substances Act (21 U.S.C. 823) is amend-
22 ed by adding at the end the following new subsection:

23 “(i) DISPENSER OF CONTROLLED SUBSTANCES BY
24 MEANS OF THE INTERNET.—(1) A pharmacy that seeks
25 to deliver, distribute, or dispense by means of the Internet

1 a controlled substance shall obtain a registration specifi-
 2 cally authorizing such activity, in accordance with regula-
 3 tions promulgated by the Attorney General. In deter-
 4 mining whether to grant an application for such registra-
 5 tion, the Attorney General shall apply the factors set forth
 6 in subsection (f).

7 “(2) Registration under this subsection shall be in
 8 addition to, and not in lieu of, registration under sub-
 9 section (f).

10 “(3) This subsection does not apply to pharmacies
 11 that merely advertise by means of the Internet but do not
 12 attempt to facilitate an actual transaction involving a con-
 13 trolled substance by means of the Internet.”.

14 (e) REPORTING REQUIREMENTS.—Section 307(d) of
 15 the Controlled Substances Act (21 U.S.C. 827(d)) is
 16 amended by—

17 (1) designating the text as paragraph (1); and

18 (2) inserting after paragraph (1), as so des-
 19 ignated by this Act, the following new paragraph:

20 “(2) A pharmacy registered under section 303(i) shall
 21 report to the Attorney General the controlled substances
 22 dispensed under such registration, in such manner and ac-
 23 companied by such information as the Attorney General
 24 by regulation shall require.”.

1 (d) **ONLINE PRESCRIPTION REQUIREMENT.**—Section
 2 309 of the Controlled Substances Act (21 U.S.C. 829) is
 3 amended by adding at the end the following new sub-
 4 section:

5 “(e) **CONTROLLED SUBSTANCES DISPENSED BY**
 6 **MEANS OF THE INTERNET.**—(1) As used in this sub-
 7 section—

8 “(A) the term ‘valid prescription’ means a pre-
 9 scription that is issued for a legitimate medical pur-
 10 pose in the usual course of professional practice that
 11 is based upon a qualifying medical relationship by a
 12 practitioner registered by the Attorney General
 13 under this part;

14 “(B) the term ‘qualifying medical relation-
 15 ship’—

16 “(i) means a medical relationship that ex-
 17 ists when the practitioner—

18 “(I) has conducted at least one med-
 19 ical evaluation with the user in the phys-
 20 ical presence of the practitioner, without
 21 regard to whether portions of the evalua-
 22 tion are conducted by other health profes-
 23 sionals; or

24 “(II) conducts a medical evaluation of
 25 the patient as a covering practitioner and

1 is not prescribing a controlled substance in
2 schedule II, III, or IV; and

3 “(ii) shall not be construed to imply that
4 one medical evaluation described in clause (i)
5 demonstrates that a prescription has been
6 issued for a legitimate medical purpose within
7 the usual course of professional practice; and

8 “(C) the term ‘covering practitioner’ means,
9 with respect to a patient, a practitioner who con-
10 ducts a medical evaluation, without regard to wheth-
11 er the medical evaluation of the patient involved is
12 an in-person evaluation, at the request of a practi-
13 tioner who has conducted at least one in-person
14 medical evaluation of the patient and is temporarily
15 unavailable to conduct the evaluation of the patient.

16 “(2) In addition to the requirements of subsections
17 (a) through (e), no controlled substance may be delivered,
18 distributed, or dispensed by means of the Internet without
19 a valid prescription.

20 “(3) Nothing in this subsection shall apply to—

21 “(A) the dispensing of a controlled substance
22 pursuant to telemedicine practices sponsored by—

23 “(i) a hospital that has in effect a provider
24 agreement under title XVIII of the Social Secu-
25 rity Act; or

“(ii) a group practice that has not fewer than 100 physicians who have in effect provider agreements under such title; or

4 “(B) the dispensing or selling of a controlled
5 substance pursuant to practices as determined by
6 the Attorney General by regulation.”.

(c) **ONLINE PRESCRIPTION REQUIREMENTS.**—The Controlled Substances Act is amended by adding after section 310 (21 U.S.C. 830) the following:

10 “ONLINE PHARMACY LICENSING AND DISCLOSURE
11 REQUIREMENTS

12 “SEC. 311. (a) IN GENERAL.—An online pharmacy
13 shall display in a visible and clear manner on its homepage
14 a statement that it complies with the requirements of this
15 section with respect to the delivery or sale or offer for sale
16 of controlled substances and shall at all times display on
17 the homepage of its Internet site a declaration of compli-
18 ance in accordance with this section.

19 “(b) **LICENSE.**—Each online pharmacy shall com-
20 ply with the requirements of State law concerning the li-
21 censure of pharmacies in each State from which it, and
22 in each State to which it, delivers, distributes, or dispenses
23 or offers to deliver, distribute, or dispense controlled sub-
24 stances by means of the Internet.

25 “(c) COMPLIANCE.—No online pharmacy or practi-
26 tioner shall deliver, distribute, or dispense by means of the

1 Internet a controlled substance without a valid prescrip-
 2 tion (as defined in section 309(e)) and each online phar-
 3 macy shall comply with all applicable requirements of Fed-
 4 eral and State law.

5 “(d) INTERNET SITE DISCLOSURE INFORMATION.—

6 Each online pharmacy site shall post in a visible and clear
 7 manner on the homepage of its Internet site or on a page
 8 directly linked from its homepage the following:

9 “(1) The name of the owner, street address of
 10 the online pharmacy’s principal place of business,
 11 telephone number, and email address.

12 “(2) A list of the States in which the online
 13 pharmacy, and any pharmacy which dispenses, deliv-
 14 ers, or distributes a controlled substance on behalf
 15 of the online pharmacy, is licensed to dispense con-
 16 trolled substances or prescription drugs and any ap-
 17 plicable license number.

18 “(3) For each pharmacy identified on its license
 19 in each State in which it is licensed to engage in the
 20 practice of pharmacy and for each pharmacy which
 21 dispenses or ships controlled substances on behalf of
 22 the online pharmacy:

23 “(A) The name of the pharmacy.

24 “(B) The street address of the pharmacy.

1 ~~“(C) The name, professional degree, and~~
2 ~~licensure of the pharmacist-in-charge.~~

3 ~~“(D) The telephone number at which the~~
4 ~~pharmacist-in-charge can be contacted.~~

5 ~~“(E) A certification that each pharmacy~~
6 ~~which dispenses or ships controlled substances~~
7 ~~on behalf of the online pharmacy is registered~~
8 ~~under this part to deliver, distribute, or dis-~~
9 ~~pense by means of the Internet controlled sub-~~
10 ~~stances.~~

11 ~~“(4) The name, address, professional degree,~~
12 ~~and licensure of practitioners who provide medical~~
13 ~~consultations through the website for the purpose of~~
14 ~~providing prescriptions.~~

15 ~~“(5) A telephone number or numbers at which~~
16 ~~the practitioners described in paragraph (4) may be~~
17 ~~contacted.~~

18 ~~“(6) The following statement, unless revised by~~
19 ~~the Attorney General by regulation: ‘This online~~
20 ~~pharmacy will only dispense a controlled substance~~
21 ~~to a person who has a valid prescription issued for~~
22 ~~a legitimate medical purpose based upon a medical~~
23 ~~relationship with a prescribing practitioner, which~~
24 ~~includes at least one prior in-person medical evalua-~~
25 ~~tion. This online pharmacy complies with section~~

1 309(e) of the Controlled Substances Act (21 U.S.C.
2 829(e)).’.

3 “(e) NOTIFICATION.—(1) Thirty days prior to offer-
4 ing a controlled substance for sale, delivery, distribution,
5 or dispensing, the online pharmacy shall notify the Attor-
6 ney General, in the form and manner as the Attorney Gen-
7 eral shall determine, and the State boards of pharmacy
8 in any States in which the online pharmacy offers to sell,
9 deliver, distribute, or dispense controlled substances.

10 “(2) The notification required under paragraph (1)
11 shall include—

12 “(A) the information required to be posted on
13 the online pharmacy’s Internet site under subsection
14 (d) and shall notify the Attorney General and the
15 applicable State boards of pharmacy, under penalty
16 of perjury, that the information disclosed on its
17 Internet site under to subsection (d) is true and ac-
18 curate;

19 “(B) the online pharmacy’s Internet site ad-
20 dress and a certification that the online pharmacy
21 shall notify the Attorney General of any change in
22 the address at least 30 days in advance; and

23 “(C) the Drug Enforcement Administration
24 registration numbers of any pharmacies and practi-
25 tioners referred to in subsection (d), as applicable.

1 “(3) An online pharmacy that is already operational
 2 as of the effective date of this section, shall notify the At-
 3 torney General and applicable State boards of pharmacy
 4 in accordance with this subsection not later than 30 days
 5 after the effective date of this section.

6 “(f) DECLARATION OF COMPLIANCE.—On and after
 7 the date on which it makes the notification under sub-
 8 section (e), each online pharmacy shall display on the
 9 homepage of its Internet site, in such form as the Attorney
 10 General shall by regulation require, a declaration that it
 11 has made such notification to the Attorney General.

12 “(g) REPORTS.—Any statement, declaration, notifi-
 13 cation, or disclosure required under this section shall be
 14 considered a report required to be kept under this part.”.

15 (f) OFFENSES INVOLVING CONTROLLED SUB-
 16 STANCES IN SCHEDULES III, IV, AND V.—Section 401(b)
 17 of the Controlled Substances Act (21 U.S.C. 841(b)) is
 18 amended—

19 (1) in paragraph (1)—

20 (A) in subparagraph (C), by striking “1
 21 gram of” before “flunitrazepam”;

22 (B) in subparagraph (D), by striking “or
 23 in the case of any controlled substance in
 24 schedule III (other than gamma hydroxybutyric
 25 acid), or 30 milligrams of flunitrazepam”; and

1 (C) by inserting at the end the following:

2 “(E)(i) In the case of any controlled substance
3 in schedule III, such person shall be sentenced to a
4 term of imprisonment of not more than 10 years
5 and if death or serious bodily injury results from the
6 use of such substance shall be sentenced to a term
7 of imprisonment of not more than 20 years; a fine
8 not to exceed the greater of that authorized in ac-
9 cordance with the provisions of title 18, or \$500,000
10 if the defendant is an individual or \$2,500,000 if the
11 defendant is other than an individual, or both.

12 “(ii) If any person commits such a violation
13 after a prior conviction for a felony drug offense has
14 become final, such person shall be sentenced to a
15 term of imprisonment of not more than 20 years
16 and if death or serious bodily injury results from the
17 use of such substance shall be sentenced to a term
18 of imprisonment of not more than 30 years; a fine
19 not to exceed the greater of twice that authorized in
20 accordance with the provisions of title 18, or
21 \$1,000,000 if the defendant is an individual or
22 \$5,000,000 if the defendant is other than an indi-
23 vidual, or both.

24 “(iii) Any sentence imposing a term of impris-
25 onment under this subparagraph shall, in the ab-

1 sence of such a prior conviction, impose a term of
 2 supervised release of at least 2 years in addition to
 3 such term of imprisonment and shall, if there was
 4 such a prior conviction, impose a term of supervised
 5 release of at least 4 years in addition to such term
 6 of imprisonment”;

7 (2) in paragraph (2) by—

8 (A) striking “3 years” and inserting “5
 9 years”;

10 (B) striking “6 years” and inserting “10
 11 years”;

12 (C) striking “after one or more prior con-
 13 victions” and all that follows through “have be-
 14 come final,” and inserting “after a prior convic-
 15 tion for a felony drug offense has become
 16 final,”; and

17 (3) in paragraph (3) by—

18 (A) striking “2 years” and inserting “6
 19 years”;

20 (B) striking “after one or more convic-
 21 tions” and all that follows through “have be-
 22 come final,” and inserting “after a prior convic-
 23 tion for a felony drug offense has become
 24 final,”; and

1 (C) adding at the end the following “Any
 2 sentence imposing a term of imprisonment
 3 under this paragraph may, if there was a prior
 4 conviction, impose a term of supervised release
 5 of not more than 1 year, in addition to such
 6 term of imprisonment.”

7 ~~(g) OFFENSES INVOLVING DISPENSING OF CON-~~
 8 ~~TROLLED SUBSTANCES BY MEANS OF THE INTERNET.—~~
 9 ~~Section 401 of the Controlled Substances Act (21 U.S.C.~~
 10 ~~841) is amended by adding at the end the following:~~

11 ~~“(g) OFFENSES INVOLVING DISPENSING OF CON-~~
 12 ~~TROLLED SUBSTANCES BY MEANS OF THE INTERNET.—~~
 13 ~~(1) Except as authorized by this title, it shall be unlawful~~
 14 ~~for any person to knowingly or intentionally cause or fa-~~
 15 ~~cilitate the delivery, distribution, or dispensing by means~~
 16 ~~of the Internet of a controlled substance.~~

17 ~~“(2) Violations of this subsection include—~~

18 ~~“(A) delivering, distributing, or dispensing a~~
 19 ~~controlled substance by means of the Internet by a~~
 20 ~~pharmacy not registered under section 303(i);~~

21 ~~“(B) writing a prescription for a controlled sub-~~
 22 ~~stance for the purpose of delivery, distribution, or~~
 23 ~~dispensation by means of the Internet in violation of~~
 24 ~~subsection 309(e);~~

1 “(C) serving as an agent, intermediary, or other
2 entity that causes the Internet to be used to bring
3 together a buyer and seller to engage in the dis-
4 pensing of a controlled substance in a manner not
5 authorized by sections 303(i) or 309(e); and

6 “(D) making a material false, fictitious, or
7 fraudulent statement or representation in the sub-
8 mission to the Attorney General under section 311.

9 “(3) This subsection does not apply to—

10 “(A) the delivery, distribution, or dispensation
11 of controlled substances by nonpractitioners to the
12 extent authorized by their registration under this
13 title;

14 “(B) the placement on the Internet of material
15 that merely advocates the use of a controlled sub-
16 stance or includes pricing information without at-
17 tempting to propose or facilitate an actual trans-
18 action involving a controlled substance; or

19 “(C) any activity that is limited to—

20 “(i) the provision of a telecommunications
21 service, or of an Internet access service or
22 Internet information location tool (as those
23 terms are defined in section 231 of the Commu-
24 nications Act of 1934 (47 U.S.C. 231)); or

1 “(ii) the transmission, storage, retrieval,
 2 hosting, formatting, or translation (or any com-
 3 bination thereof) of a communication, without
 4 selection or alteration of the content of the
 5 communication, except that deletion of a par-
 6 ticular communication or material made by an-
 7 other person in a manner consistent with sec-
 8 tion 230(e) of the Communications Act of 1934
 9 (47 U.S.C. 230(e)) shall not constitute such se-
 10 lection or alteration of the content of the com-
 11 munication.

12 “(4) Any person who knowingly or intentionally vio-
 13 lates this subsection shall be sentenced in accordance with
 14 subsection (b) of this section.”.

15 (h) PUBLICATION.—Section 403(e) of the Controlled
 16 Substances Act (21 U.S.C. 843(e)) is amended by—

17 (1) designating the text as paragraph (1); and
 18 (2) adding at the end the following:

19 “(2)(A) It shall be unlawful for any person to use
 20 the Internet, or cause the Internet to be used, to advertise
 21 the sale of, or to offer to sell, distribute, or dispense, a
 22 controlled substance except as authorized by this title.

23 “(B) Violations of this paragraph include causing the
 24 placement on the Internet of an advertisement that refers
 25 to or directs prospective buyers to Internet sellers of con-

1 trolled substances who are not registered under section
2 303(i).

3 “(C) This paragraph does not apply to material that
4 either—

5 “(i) advertises the distribution of controlled
6 substances by nonpractitioners to the extent author-
7 ized by their registration under this title; or

8 “(ii) merely advocates the use of a controlled
9 substance or includes pricing information without at-
10 tempting to facilitate an actual transaction involving
11 a controlled substance.”.

12 (i) INJUNCTIVE RELIEF.—Section 512 of the Con-
13 trolled Substances Act (21 U.S.C. 882) is amended by
14 adding to the end of the section the following new sub-
15 section:

16 “(c) STATE CAUSE OF ACTION PERTAINING TO ON-
17 LINE PHARMACIES.—(1) In any case in which the State
18 has reason to believe that an interest of the residents of
19 that State has been or is being threatened or adversely
20 affected by the action of a person, entity, or Internet site
21 that violates the provisions of section 303(i), 309(c), or
22 311, the State may bring a civil action on behalf of such
23 residents in a district court of the United States with ap-
24 propriate jurisdiction—

1 ~~“(A) to enjoin the conduct which violates this~~
2 ~~section;~~

3 ~~“(B) to enforce compliance with this section;~~

4 ~~“(C) to obtain damages, restitution, or other~~
5 ~~compensation, including civil penalties under section~~
6 ~~402(b); and~~

7 ~~“(D) to obtain such other legal or equitable re-~~
8 ~~lief as the court may find appropriate.~~

9 ~~“(2)(A) Prior to filing a complaint under paragraph~~
10 ~~(1), the State shall serve a copy of the complaint upon~~
11 ~~the Attorney General and upon the United States Attor-~~
12 ~~ney for the judicial district in which the complaint is to~~
13 ~~be filed. In any case where such prior service is not fea-~~
14 ~~sible, the State shall serve the complaint on the Attorney~~
15 ~~General and the appropriate United States Attorney on~~
16 ~~the same day that the State’s complaint is filed in Federal~~
17 ~~district court of the United States. Such proceedings shall~~
18 ~~be independent of, and not in lieu of, criminal prosecutions~~
19 ~~or any other proceedings under this title or any other laws~~
20 ~~of the United States.~~

21 ~~“(B)(i) Not later than 120 days after the later of the~~
22 ~~date on which a State’s complaint is served on the Attor-~~
23 ~~ney General and the appropriate United States Attorney,~~
24 ~~or the date on which the complaint is filed, the United~~

1 States shall have the right to intervene as a party in any
 2 action filed by a State under paragraph (1).

3 “(ii) After the 120-day period described in clause (i)
 4 has elapsed, the United States may, for good cause shown,
 5 intervene as a party in an action filed by a State under
 6 paragraph (1).

7 “(iii) Notice and an opportunity to be heard with re-
 8 spect to intervention shall be afforded the State that filed
 9 the original complaint in any action in which the United
 10 States files a complaint in intervention under clause (i)
 11 or a motion to intervene under clause (ii).

12 “(iv) The United States may file a petition for appeal
 13 of a judicial determination in any action filed by a State
 14 under this section.

15 “(C) Service of a State’s complaint on the United
 16 States as required in this paragraph shall be made in ac-
 17 cord with the requirements of Federal Rule of Civil Proce-
 18 dure 4(i)(1).

19 “(3) For purposes of bringing any civil action under
 20 paragraph (1), nothing in this Act shall prevent an attor-
 21 ney general of a State from exercising the powers con-
 22 ferred on the attorney general of a State by the laws of
 23 such State to conduct investigations or to administer oaths
 24 or affirmations or to compel the attendance of witnesses
 25 of or the production of documentary or other evidence.

1 “(4) Any civil action brought under paragraph (1) in
 2 a district court of the United States may be brought in
 3 the district in which the defendant is found, is an inhab-
 4 itant, or transacts business or wherever venue is proper
 5 under section 1391 of title 28, United States Code. Proce-
 6 ss in such action may be served in any district in which
 7 the defendant is an inhabitant or in which the defendant
 8 may be found.

9 “(5) No private right of action is created under this
 10 subsection.”.

11 (j) FORFEITURE OF FACILITATING PROPERTY IN
 12 DRUG CASES.—Section 511(a)(4) of the Controlled Sub-
 13 stances Act (21 U.S.C. 881(a)(4)) is amended to read as
 14 follows:

15 “(4) Any property, real or personal, tangible or
 16 intangible, used or intended to be used to commit,
 17 or to facilitate the commission, of a violation of this
 18 title or title III, and any property traceable there-
 19 to.”.

20 (k) IMPORT AND EXPORT ACT.—Section 1010(b) of
 21 the Controlled Substances Import and Export Act (21
 22 U.S.C. 960(b)) is amended—

23 (1) in paragraph (4) by—

24 (A) striking “or any quantity of a con-
 25 trolled substance in schedule III, IV, or V, (ex-

1 cept a violation involving flunitrazepam and ex-
 2 cept a violation involving gamma hydroxy-
 3 butyric acid);

4 (B) inserting “, or” before “less than one
 5 kilogram of hashish oil”; and

6 (C) striking “imprisoned” and all that fol-
 7 lows through the end of the paragraph and in-
 8 serting “sentenced in accordance with section
 9 401(b)(1)(D) of this title (21 U.S.C.
 10 841(b)(1)(E)).”;

11 (2) by adding at the end the following:

12 “(5) In the case of a violation of subsection (a) of
 13 this section involving a controlled substance in schedule
 14 III, such person shall be sentenced in accordance with sec-
 15 tion 401(b)(1)(E).

16 “(6) In the case of a violation of subsection (a) of
 17 this section involving a controlled substance in schedule
 18 IV (except a violation involving flunitrazepam); such per-
 19 son shall be sentenced in accordance with section
 20 401(b)(2).

21 “(7) In the case of a violation of subsection (a) of
 22 this section involving a controlled substance in schedule
 23 V, such person shall be sentenced in accordance with sec-
 24 tion 401(b)(3).”; and

1 ~~(3)~~ in paragraph ~~(3)~~, by striking “, nor shall a
 2 person so sentenced be eligible for parole during the
 3 term of such a sentence” in the final sentence.

4 ~~(l)~~ EFFECTIVE DATE.—The amendments made by
 5 this Act shall become effective 60 days after the date of
 6 enactment of this Act.

7 ~~(m)~~ GUIDELINES AND REGULATIONS.—

8 ~~(1)~~ IN GENERAL.—The Attorney General may
 9 promulgate and enforce any rules, regulations, and
 10 procedures which may be necessary and appropriate
 11 for the efficient execution of functions under this
 12 subtitle, including any interim rules necessary for
 13 the immediate implementation of this Act, on its ef-
 14 fective date.

15 ~~(2)~~ SENTENCING GUIDELINES.—The United
 16 States Sentencing Commission, in determining
 17 whether to amend, or establish new, guidelines or
 18 policy statements, to conform the guidelines and pol-
 19 icy statements to this Act and the amendments
 20 made by this Act, may not construe any change in
 21 the maximum penalty for a violation involving a con-
 22 trolled substance in a particular schedule as requir-
 23 ing an amendment to, or establishing a new, guide-
 24 line or policy statement.

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Ryan Haight Online*
 3 *Pharmacy Consumer Protection Act of 2007”.*

4 **SEC. 2. REQUIREMENT OF A VALID PRESCRIPTION FOR**
 5 **CONTROLLED SUBSTANCES DISPENSED BY**
 6 **MEANS OF THE INTERNET.**

7 *Section 309 of the Controlled Substances Act (21*
 8 *U.S.C. 829) is amended by adding at the end the following*
 9 *new subsection:*

10 “(e) *CONTROLLED SUBSTANCES DISPENSED BY MEANS*
 11 *OF THE INTERNET.*—

12 “(1) *No controlled substance may be delivered,*
 13 *distributed, or dispensed by means of the Internet*
 14 *without a valid prescription.*

15 “(2) *As used in this subsection:*

16 “(A) *The term ‘valid prescription’ means a*
 17 *prescription that is issued for a legitimate med-*
 18 *ical purpose in the usual course of professional*
 19 *practice by—*

20 “(i) *a practitioner who has conducted*
 21 *at least one in-person medical evaluation of*
 22 *the patient; or*

23 “(ii) *a covering practitioner.*

24 “(B)(i) *The term ‘in-person medical evalua-*
 25 *tion’ means a medical evaluation that is con-*
 26 *ducted with the patient in the physical presence*

1 *of the practitioner, without regard to whether*
 2 *portions of the evaluation are conducted by other*
 3 *health professionals.*

4 “(ii) *Nothing in clause (i) shall be con-*
 5 *strued to imply that one in-person medical eval-*
 6 *uation demonstrates that a prescription has been*
 7 *issued for a legitimate medical purpose within*
 8 *the usual course of professional practice.*

9 “(C) *The term ‘covering practitioner’*
 10 *means, with respect to a patient, a practitioner*
 11 *who conducts a medical evaluation (other than*
 12 *an in-person medical evaluation) at the request*
 13 *of a practitioner who—*

14 “(i) *has conducted at least one in-per-*
 15 *son medical evaluation of the patient dur-*
 16 *ing the 24-month period ending on the date*
 17 *of that medical evaluation; and*

18 “(ii) *is temporarily unavailable to con-*
 19 *duct the evaluation of the patient.*

20 “(3) *Nothing in this subsection shall apply to—*

21 “(A) *the delivery, distribution, or dis-*
 22 *persing of a controlled substance by a practi-*
 23 *tioner engaged in the practice of telemedicine*
 24 *if—*

1 “(i) the telemedicine is being conducted
2 while the patient is being treated by, and
3 physically located in, a hospital or clinic
4 registered under section 303(f), and the
5 practitioner conducting the practice of tele-
6 medicine is registered under section 303(f)
7 in the State in which the patient is located
8 and is acting in the usual course of profes-
9 sional practice and in accordance with ap-
10 plicable State law;

11 “(ii) the telemedicine is being con-
12 ducted while the patient is being treated by,
13 and in the physical presence of, a practi-
14 tioner registered under section 303(f) who is
15 acting in the usual course of professional
16 practice, and the practitioner conducting
17 the practice of telemedicine is registered
18 under section 303(f) in the State in which
19 the patient is located and is acting in the
20 usual course of professional practice and in
21 accordance with applicable State law; or

22 “(iii) the telemedicine is being con-
23 ducted under any other circumstances that
24 the Attorney General and the Secretary
25 have jointly, by regulation, determined to be

1 *consistent with effective controls against di-*
 2 *version and otherwise consistent with the*
 3 *public health and safety; or*

4 *“(B) the dispensing or selling of a con-*
 5 *trolled substance pursuant to practices as deter-*
 6 *mined by the Attorney General by regulation,*
 7 *which shall be consistent with effective controls*
 8 *against diversion.”.*

9 **SEC. 3. AMENDMENTS TO THE CONTROLLED SUBSTANCES**

10 **ACT RELATING TO THE DELIVERY OF CON-**
 11 **TROLLED SUBSTANCES BY MEANS OF THE**
 12 **INTERNET.**

13 (a) *IN GENERAL.*—Section 102 of the Controlled Sub-
 14 stances Act (21 U.S.C. 802) is amended by adding at the
 15 end the following:

16 “(50) The term ‘Internet’ means collectively the
 17 myriad of computer and telecommunications facili-
 18 ties, including equipment and operating software,
 19 which comprise the interconnected worldwide network
 20 of networks that employ the Transmission Control
 21 Protocol/Internet Protocol, or any predecessor or suc-
 22 cessor protocol to such protocol, to communicate infor-
 23 mation of all kinds by wire or radio.

24 “(51) The term ‘deliver, distribute, or dispense
 25 by means of the Internet’ refers, respectively, to any

1 *delivery, distribution, or dispensing of a controlled*
 2 *substance that is caused or facilitated by means of the*
 3 *Internet.*

4 “(52) The term ‘online pharmacy’—

5 “(A) means a person, entity, or Internet
 6 site, whether in the United States or abroad, that
 7 knowingly or intentionally delivers, distributes,
 8 or dispenses, or offers or attempts to deliver, dis-
 9 tribute, or dispense, a controlled substance by
 10 means of the Internet; and

11 “(B) does not include—

12 “(i) manufacturers or distributors reg-
 13 istered under subsection (a), (b), (c), or (d)
 14 of section 303 who do not dispense con-
 15 trolled substances to an unregistered indi-
 16 vidual or entity;

17 “(ii) nonpharmacy practitioners who
 18 are registered under section 303(f) and
 19 whose activities are authorized by that reg-
 20 istration;

21 “(iii) mere advertisements that do not
 22 attempt to facilitate an actual transaction
 23 involving a controlled substance; or

24 “(iv) a person, entity, or Internet site
 25 which is not in the United States and does

1 not facilitate the delivery, distribution, or
 2 dispensing of a controlled substance by
 3 means of the Internet to any person in the
 4 United States.

5 “(53) The term ‘homepage’ means the opening or
 6 main page or screen of the website of an online phar-
 7 macy that is viewable on the Internet.

8 “(54) The term ‘practice of telemedicine’ means
 9 the practice of medicine in accordance with applica-
 10 ble Federal and State laws by a practitioner (other
 11 than a pharmacist) who is at a location remote from
 12 the patient and is communicating with the patient,
 13 or health care professional who is treating the patient,
 14 using a telecommunications system referred to in sec-
 15 tion 1834(m) of the Social Security Act (42 U.S.C.
 16 1395m(m)).”.

17 (b) *REGISTRATION REQUIREMENTS.*—Section 303 of
 18 the Controlled Substances Act (21 U.S.C. 823) is amended
 19 by adding at the end the following new subsection:

20 “(i) *DISPENSER OF CONTROLLED SUBSTANCES BY*
 21 *MEANS OF THE INTERNET.*—(1) An online pharmacy shall
 22 obtain a registration specifically authorizing such activity,
 23 in accordance with regulations promulgated by the Attor-
 24 ney General. In determining whether to grant an applica-

1 tion for such registration, the Attorney General shall apply
 2 the factors set forth in subsection (f).

3 “(2) Registration under this subsection shall be in ad-
 4 dition to, and not in lieu of, registration under subsection
 5 (f).

6 “(3) This subsection does not apply to pharmacies that
 7 merely advertise by means of the Internet but do not at-
 8 tempt to facilitate an actual transaction involving a con-
 9 trolled substance by means of the Internet.”.

10 (c) *REPORTING REQUIREMENTS.*—Section 307(d) of
 11 the Controlled Substances Act (21 U.S.C. 827(d)) is amend-
 12 ed by—

13 (1) designating the text as paragraph (1); and

14 (2) inserting after paragraph (1), as so des-
 15 ignated by this Act, the following new paragraph:

16 “(2) A pharmacy registered under section 303(i) shall
 17 report to the Attorney General the controlled substances dis-
 18 pensed under such registration, in such manner and accom-
 19 panied by such information as the Attorney General by reg-
 20 ulation shall require.”.

21 (d) *ONLINE PRESCRIPTION REQUIREMENTS.*—The
 22 Controlled Substances Act is amended by inserting after sec-
 23 tion 310 (21 U.S.C. 830) the following:

“ONLINE PHARMACY LICENSING AND DISCLOSURE REQUIREMENTS

“SEC. 311. (a) IN GENERAL.—An online pharmacy display in a visible and clear manner on its homepage a statement that it complies with the requirements of this section with respect to the delivery or sale or offer for sale of controlled substances and shall at all times display on the homepage of its Internet site a declaration of compliance in accordance with this section.

“(b) *LICENSURE.*—Each online pharmacy shall comply with the requirements of State law concerning the licensing of pharmacies in each State from which it, and in each State to which it, delivers, distributes, or dispenses or attempts to deliver, distribute, or dispense controlled substances by means of the Internet.

“(c) COMPLIANCE.—No online pharmacy or practitioner shall deliver, distribute, or dispense by means of the Internet a controlled substance without a valid prescription defined in section 309(e)) and each online pharmacy shall comply with all applicable requirements of Federal and State law.

“(d) *INTERNET PHARMACY SITE DISCLOSURE INFORMATION*.—Each online pharmacy site shall post in a visible and clear manner on the homepage of its Internet site or a page directly linked from its homepage the following:

1 “(1) *The name of the owner, street address of the*
2 *online pharmacy’s principal place of business, tele-*
3 *phone number, and email address.*

4 “(2) *A list of the States in which the online*
5 *pharmacy, and any pharmacy which dispenses, deliv-*
6 *ers, or distributes a controlled substance on behalf of*
7 *the online pharmacy, is licensed to dispense controlled*
8 *substances or prescription drugs and any applicable*
9 *license number.*

10 “(3) *For each pharmacy identified on its license*
11 *in each State in which it is licensed to engage in the*
12 *practice of pharmacy and for each pharmacy which*
13 *dispenses or ships controlled substances on behalf of*
14 *the online pharmacy:*

15 “(A) *The name of the pharmacy.*

16 “(B) *The street address of the pharmacy.*

17 “(C) *The name, professional degree, and li-*
18 *censure of the pharmacist-in-charge.*

19 “(D) *The telephone number at which the*
20 *pharmacist-in-charge can be contacted.*

21 “(E) *A certification that each pharmacy*
22 *which dispenses or ships controlled substances on*
23 *behalf of the online pharmacy is registered under*
24 *this part to deliver, distribute, or dispense by*
25 *means of the Internet controlled substances.*

1 “(4) *The name, address, professional degree, and*
 2 *licensure of practitioners who provide medical con-*
 3 *sultations through the website for the purpose of pro-*
 4 *viding prescriptions.*

5 “(5) *A telephone number or numbers at which*
 6 *the practitioners described in paragraph (4) may be*
 7 *contacted.*

8 “(6) *The following statement, unless revised by*
 9 *the Attorney General by regulation: ‘This online*
 10 *pharmacy will only dispense a controlled substance to*
 11 *a person who has a valid prescription issued for a le-*
 12 *gitimate medical purpose based upon a medical rela-*
 13 *tionship with a prescribing practitioner, which in-*
 14 *cludes at least one prior in-person medical evalua-*
 15 *tion. This online pharmacy complies with section*
 16 *309(e) of the Controlled Substances Act (21 U.S.C.*
 17 *829(e)).’.*

18 “(e) *NOTIFICATION.—(1) Thirty days prior to offering*
 19 *a controlled substance for sale, delivery, distribution, or dis-*
 20 *persing, the online pharmacy shall notify the Attorney Gen-*
 21 *eral, in the form and manner as the Attorney General shall*
 22 *determine, and the State boards of pharmacy in any States*
 23 *in which the online pharmacy offers to sell, deliver, dis-*
 24 *tribute, or dispense controlled substances.*

1 “(2) *The notification required under paragraph (1)*
 2 *shall include—*

3 “(A) *the information required to be posted on the*
 4 *online pharmacy’s Internet site under subsection (d)*
 5 *and shall notify the Attorney General and the appli-*
 6 *cable State boards of pharmacy, under penalty of per-*
 7 *jury, that the information disclosed on its Internet*
 8 *site under to subsection (d) is true and accurate;*

9 “(B) *the online pharmacy’s Internet site address*
 10 *and a certification that the online pharmacy shall no-*
 11 *tify the Attorney General of any change in the ad-*
 12 *dress at least 30 days in advance; and*

13 “(C) *the Drug Enforcement Administration reg-*
 14 *istration numbers of any pharmacies and practi-*
 15 *tioners referred to in subsection (d), as applicable.*

16 “(3) *An online pharmacy that is already operational*
 17 *as of the effective date of this section, shall notify the Attor-*
 18 *ney General and applicable State boards of pharmacy in*
 19 *accordance with this subsection not later than 30 days after*
 20 *the effective date of this section.*

21 “(f) *DECLARATION OF COMPLIANCE.—On and after the*
 22 *date on which it makes the notification under subsection*
 23 *(e), each online pharmacy shall display on the homepage*
 24 *of its Internet site, in such form as the Attorney General*

1 *shall by regulation require, a declaration that it has made*
 2 *such notification to the Attorney General.*

3 “(g) *REPORTS.*—*Any statement, declaration, notifica-*
 4 *tion, or disclosure required under this section shall be con-*
 5 *sidered a report required to be kept under this part.”.*

6 (e) *OFFENSES INVOLVING CONTROLLED SUBSTANCES*
 7 *IN SCHEDULES III, IV, AND V.*—*Section 401(b) of the Con-*
 8 *trolled Substances Act (21 U.S.C. 841(b)) is amended—*

9 (1) *in paragraph (1)—*

10 (A) *in subparagraph (C), by striking “1*
 11 *gram of” before “flunitrazepam”;*

12 (B) *in subparagraph (D), by striking “or in*
 13 *the case of any controlled substance in schedule*
 14 *III (other than gamma hydroxybutyric acid), or*
 15 *30 milligrams of flunitrazepam”;* and

16 (C) *by adding at the end the following:*

17 “(E)(i) *In the case of any controlled substance in*
 18 *schedule III, such person shall be sentenced to a term*
 19 *of imprisonment of not more than 10 years and if*
 20 *death or serious bodily injury results from the use of*
 21 *such substance shall be sentenced to a term of impris-*
 22 *onment of not more than 20 years, a fine not to ex-*
 23 *ceed the greater of that authorized in accordance with*
 24 *the provisions of title 18, or \$500,000 if the defendant*

1 *is an individual or \$2,500,000 if the defendant is*
2 *other than an individual, or both.*

3 *“(ii) If any person commits such a violation*
4 *after a prior conviction for a felony drug offense has*
5 *become final, such person shall be sentenced to a term*
6 *of imprisonment of not more than 20 years and if*
7 *death or serious bodily injury results from the use of*
8 *such substance shall be sentenced to a term of impris-*
9 *onment of not more than 30 years, a fine not to ex-*
10 *ceed the greater of twice that authorized in accordance*
11 *with the provisions of title 18, or \$1,000,000 if the de-*
12 *fendant is an individual or \$5,000,000 if the defend-*
13 *ant is other than an individual, or both.*

14 *“(iii) Any sentence imposing a term of impris-*
15 *onment under this subparagraph shall, in the absence*
16 *of such a prior conviction, impose a term of super-*
17 *vised release of at least 2 years in addition to such*
18 *term of imprisonment and shall, if there was such a*
19 *prior conviction, impose a term of supervised release*
20 *of at least 4 years in addition to such term of impris-*
21 *onment”;*

22 *(2) in paragraph (2) by—*

23 *(A) striking “3 years” and inserting “5*
24 *years”;*

1 (B) striking “6 years” and inserting “10
2 years”; and

3 (C) striking “after one or more prior con-
4 victions” and all that follows through “have be-
5 come final,” and inserting “after a prior convic-
6 tion for a felony drug offense has become final,”;
7 and

8 (3) in paragraph (3) by—

9 (A) striking “2 years” and inserting “6
10 years”;

11 (B) striking “after one or more convictions”
12 and all that follows through “have become final,”
13 and inserting “after a prior conviction for a fel-
14 ony drug offense has become final,”; and

15 (C) adding at the end the following “Any
16 sentence imposing a term of imprisonment under
17 this paragraph may, if there was a prior convic-
18 tion, impose a term of supervised release of not
19 more than 1 year, in addition to such term of
20 imprisonment.”

21 (f) OFFENSES INVOLVING DISPENSING OF CON-
22 TROLLED SUBSTANCES BY MEANS OF THE INTERNET.—
23 Section 401 of the Controlled Substances Act (21 U.S.C.
24 841) is amended by adding at the end the following:

1 “(h) *OFFENSES INVOLVING DISPENSING OF CON-*
 2 *TROLLED SUBSTANCES BY MEANS OF THE INTERNET.*—(1)
 3 *Except as authorized by this title, it shall be unlawful for*
 4 *any person to knowingly or intentionally cause or facilitate*
 5 *the delivery, distribution, or dispensing by means of the*
 6 *Internet of a controlled substance.*

7 “(2) *Examples of activities that violate paragraph (1)*
 8 *include, but are not limited to, knowingly or inten-*
 9 *tionally—*

10 “(A) *delivering, distributing, or dispensing a*
 11 *controlled substance by means of the Internet by a*
 12 *pharmacy not registered under section 303(i);*

13 “(B) *writing a prescription for a controlled sub-*
 14 *stance for the purpose of delivery, distribution, or dis-*
 15 *persation by means of the Internet in violation of*
 16 *subsection 309(e);*

17 “(C) *serving as an agent, intermediary, or other*
 18 *entity that causes the Internet to be used to bring to-*
 19 *gether a buyer and seller to engage in the dispensing*
 20 *of a controlled substance in a manner not authorized*
 21 *by sections 303(i) or 309(e); and*

22 “(D) *making a material false, fictitious, or*
 23 *fraudulent statement or representation in the submis-*
 24 *sion to the Attorney General under section 311.*

25 “(3)(A) *This subsection does not apply to—*

1 “(i) the delivery, distribution, or dispensation of
2 controlled substances by nonpractitioners to the extent
3 authorized by their registration under this title;

4 “(ii) the placement on the Internet of material
5 that merely advocates the use of a controlled substance
6 or includes pricing information without attempting
7 to propose or facilitate an actual transaction involv-
8 ing a controlled substance; or

9 “(iii) except as provided in subparagraph (B),
10 any activity that is limited to—

11 “(I) the provision of a telecommunications
12 service, or of an Internet access service or Inter-
13 net information location tool (as those terms are
14 defined in section 231 of the Communications
15 Act of 1934 (47 U.S.C. 231)); or

16 “(II) the transmission, storage, retrieval,
17 hosting, formatting, or translation (or any com-
18 bination thereof) of a communication, without
19 selection or alteration of the content of the com-
20 munication, except that deletion of a particular
21 communication or material made by another
22 person in a manner consistent with section
23 230(c) of the Communications Act of 1934 (47
24 U.S.C. 230(c)) shall not constitute such selection

1 *or alteration of the content of the communica-*
 2 *tion.*

3 “(B) *The exceptions under subclauses (I) and (II) of*
 4 *subparagraph (A)(iii) shall not apply to a person acting*
 5 *in concert with a person who violates subsection (g)(1).*

6 “(4) *Any person who knowingly or intentionally vio-*
 7 *lates this subsection shall be sentenced in accordance with*
 8 *subsection (b) of this section.”.*

9 (g) *PUBLICATION.*—*Section 403(c) of the Controlled*
 10 *Substances Act (21 U.S.C. 843(c)) is amended by—*

11 (1) *designating the text as paragraph (1); and*

12 (2) *adding at the end the following:*

13 “(2)(A) *Except as authorized by this title, it shall be*
 14 *unlawful for any person by means of the Internet, to know-*
 15 *ingly advertise the sale or distribution of, or to offer to sell,*
 16 *distribute, or dispense, a controlled substance.*

17 “(B) *Examples of activities that violate subparagraph*
 18 *(A) include, but are not limited to, knowingly or inten-*
 19 *tionally causing the placement on the Internet of an adver-*
 20 *tisement that refers to or directs prospective buyers to Inter-*
 21 *net sellers of controlled substances who are not registered*
 22 *under section 303(i).*

23 “(C) *Subparagraph (A) does not apply to material*
 24 *that either—*

1 “(i) merely advertises the distribution of con-
 2 trolled substances by nonpractitioners to the extent
 3 authorized by their registration under this title; or

4 “(ii) merely advocates the use of a controlled
 5 substance or includes pricing information without at-
 6 tempting to facilitate an actual transaction involving
 7 a controlled substance.”.

8 (h) *INJUNCTIVE RELIEF*.—Section 512 of the Con-
 9 trolled Substances Act (21 U.S.C. 882) is amended by add-
 10 ing to the end of the section the following new subsection:

11 “(c) *STATE CAUSE OF ACTION PERTAINING TO ONLINE*
 12 *PHARMACIES*.—(1) *In any case in which the State has rea-*
 13 *son to believe that an interest of the residents of that State*
 14 *has been or is being threatened or adversely affected by the*
 15 *action of a person, entity, or Internet site that violates the*
 16 *provisions of section 303(i), 309(e), or 311, the State may*
 17 *bring a civil action on behalf of such residents in a district*
 18 *court of the United States with appropriate jurisdiction—*

19 “(A) *to enjoin the conduct which violates this*
 20 *section;*

21 “(B) *to enforce compliance with this section;*

22 “(C) *to obtain damages, restitution, or other*
 23 *compensation, including civil penalties under section*
 24 *402(b); and*

1 “(D) to obtain such other legal or equitable relief
2 as the court may find appropriate.

3 “(2)(A) Prior to filing a complaint under paragraph
4 (1), the State shall serve a copy of the complaint upon the
5 Attorney General and upon the United States Attorney for
6 the judicial district in which the complaint is to be filed.
7 In any case where such prior service is not feasible, the
8 State shall serve the complaint on the Attorney General and
9 the appropriate United States Attorney on the same day
10 that the State’s complaint is filed in Federal district court
11 of the United States. Such proceedings shall be independent
12 of, and not in lieu of, criminal prosecutions or any other
13 proceedings under this title or any other laws of the United
14 States.

15 “(B)(i) Not later than 120 days after the later of the
16 date on which a State’s complaint is served on the Attorney
17 General and the appropriate United States Attorney, or the
18 date on which the complaint is filed, the United States shall
19 have the right to intervene as a party in any action filed
20 by a State under paragraph (1).

21 “(ii) After the 120-day period described in clause (i)
22 has elapsed, the United States may, for good cause shown,
23 intervene as a party in an action filed by a State under
24 paragraph (1).

1 “(iii) Notice and an opportunity to be heard with re-
 2 spect to intervention shall be afforded the State that filed
 3 the original complaint in any action in which the United
 4 States files a complaint in intervention under clause (i)
 5 or a motion to intervene under clause (ii).

6 “(iv) The United States may file a petition for appeal
 7 of a judicial determination in any action filed by a State
 8 under this section.

9 “(C) Service of a State’s complaint on the United
 10 States as required in this paragraph shall be made in ac-
 11 cord with the requirements of Federal Rule of Civil Proce-
 12 dure 4(i)(1).

13 “(3) For purposes of bringing any civil action under
 14 paragraph (1), nothing in this Act shall prevent an attor-
 15 ney general of a State from exercising the powers conferred
 16 on the attorney general of a State by the laws of such State
 17 to conduct investigations or to administer oaths or affirma-
 18 tions or to compel the attendance of witnesses of or the pro-
 19 duction of documentary or other evidence.

20 “(4) Any civil action brought under paragraph (1) in
 21 a district court of the United States may be brought in the
 22 district in which the defendant is found, is an inhabitant,
 23 or transacts business or wherever venue is proper under sec-
 24 tion 1391 of title 28, United States Code. Process in such

1 *action may be served in any district in which the defendant*
 2 *is an inhabitant or in which the defendant may be found.*

3 “(5) No private right of action is created under this
 4 subsection.”.

5 (i) *FORFEITURE OF FACILITATING PROPERTY IN*
 6 *DRUG CASES.*—Section 511(a)(4) of the Controlled Sub-
 7 stances Act (21 U.S.C. 881(a)(4)) is amended to read as
 8 follows:

9 “(4) Any property, real or personal, tangible or
 10 intangible, used or intended to be used to commit, or
 11 to facilitate the commission, of a violation of this title
 12 or title III, and any property traceable thereto.”.

13 (j) *IMPORT AND EXPORT ACT.*—Section 1010(b) of the
 14 Controlled Substances Import and Export Act (21 U.S.C.
 15 960(b)) is amended—

16 (1) in paragraph (4) by—

17 (A) striking “or any quantity of a con-
 18 trolled substance in schedule III, IV, or V, (ex-
 19 cept a violation involving flunitrazepam and ex-
 20 cept a violation involving gamma hydroxy-
 21 butyric acid)”;

22 (B) inserting “, or” before “less than one
 23 kilogram of hashish oil”; and

24 (C) striking “imprisoned” and all that fol-
 25 lows through the end of the paragraph and in-

1 serting “sentenced in accordance with section
 2 401(b)(1)(D) of this title (21 U.S.C.
 3 841(b)(1)(E)).”;

4 (2) by adding at the end the following:

5 “(5) In the case of a violation of subsection (a) of this
 6 section involving a controlled substance in schedule III,
 7 such person shall be sentenced in accordance with section
 8 401(b)(1)(E).

9 “(6) In the case of a violation of subsection (a) of this
 10 section involving a controlled substance in schedule IV (ex-
 11 cept a violation involving flunitrazepam), such person shall
 12 be sentenced in accordance with section 401(b)(2).

13 “(7) In the case of a violation of subsection (a) of this
 14 section involving a controlled substance in schedule V, such
 15 person shall be sentenced in accordance with section
 16 401(b)(3).”; and

17 (3) in paragraph (3), by striking “, nor shall a
 18 person so sentenced be eligible for parole during the
 19 term of such a sentence” in the final sentence.

20 (k) *EFFECTIVE DATE*.—The amendments made by this
 21 Act shall become effective 60 days after the date of enact-
 22 ment of this Act.

23 (l) *GUIDELINES AND REGULATIONS*.—

24 (1) *IN GENERAL*.—The Attorney General may
 25 promulgate and enforce any rules, regulations, and

1 *procedures which may be necessary and appropriate*
2 *for the efficient execution of functions under this sub-*
3 *title, including any interim rules necessary for the*
4 *immediate implementation of this Act, on its effective*
5 *date.*

6 (2) *SENTENCING GUIDELINES.—The United*
7 *States Sentencing Commission, in determining wheth-*
8 *er to amend, or establish new, guidelines or policy*
9 *statements, to conform the Federal sentencing guide-*
10 *lines and policy statements to this Act and the*
11 *amendments made by this Act—*

12 (A) *shall consult with the Department of*
13 *Justice, experts and other affected parties con-*
14 *cerning which penalties for scheduled substances*
15 *amended by this Act should be reflected in the*
16 *Federal sentencing guidelines; and*

17 (B) *should not construe any change in the*
18 *maximum penalty for a violation involving a*
19 *controlled substance in a particular schedule as*
20 *being the sole reason to amend a, or establish a*
21 *new, guideline or policy statement.*

22 (m) *ANNUAL REPORT.—Not later than 180 days after*
23 *the date of enactment of this Act, and annually for 2 years*
24 *after the initial report, the Drug Enforcement Administra-*

1 *tion, in consultation with the Department of State, shall*
2 *submit to Congress a report describing—*

3 *(1) the foreign supply chains and sources of con-*
4 *trolled substances offered for sale without a valid pre-*
5 *scription on the Internet;*

6 *(2) the efforts and strategy of the Drug Enforce-*
7 *ment Administration to decrease the foreign supply*
8 *chain and sources of controlled substances offered for*
9 *sale without a valid prescription on the Internet; and*

10 *(3) the efforts of the Drug Enforcement Adminis-*
11 *tration to work with domestic and multinational*
12 *pharmaceutical companies and others to build inter-*
13 *national cooperation and a commitment to fight on*
14 *a global scale the problem of distribution of controlled*
15 *substances over the Internet without a valid prescrip-*
16 *tion.*

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110TH CONGRESS
2^D Session

S. 980

A BILL

To amend the Controlled Substances Act to address
online pharmacies.

MARCH 12, 2008

Reported with an amendment